IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

R.P.No.1119 of 2006 IN W.P.(C).NO.29943 OF 2006 (M)

AGAINST THE JUDGEMENT IN W.P.(C).29943/2006 DATED 20/11/2006

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REVIEW PETITIONERS/PETITIONERS IN W.P.:-

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1. MR.V.J.JUSTINE THOMAS,
   VADAKKATH HOUSE, VADUTHALA P.O.,
   KOCHI-23.

2. MR.M.L.VAMANAN, MALIYAM HOUSE,
   VADUTHALA P.O., KOCHI-23.

3. MR.ALPHY THOMAS PODUTHAS,
   HOUSE NO.XLV/1172, VADUTHALA P.O.,
   KOCHI-23.

BY ADV. SRI.DEVAN RAMACHANDRAN
SMT.T.G.SEETHAL

RESPONDENTS: RESPONDENTS IN W.P.:-

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1. THE GOVERNMENT OF KERALA,
   REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT,
   TRIVANDRUM.

2. THE UNION OF INDIA REPRESENTED BY ITS SECRETARY,
   MINISTRY OF RAILWAYS, NEW DELHI.

3. COCHIN PORT TRUST, WILLINGDON ISLAND,
   COCHIN-3, REPRESENTED BY ITS CHAIRMAN.

4. THE RAIL VIKAS NIGAM LTD.,
   MEZZAMINE FLOOR, THIRUNDAI RAILWAY STATION,
   MTP FIELD OFFICE, MYLAPORE, CHENNAI-04,
   REPRESENTED BY ITS ADDITIONAL GENERAL MANAGER.

5. THE SPECIAL TAHSILDAR (LA),
   RAILWAYS, KOCHI-16.

6. THE GENERAL MANAGER,
   SOUTHERN RAILWAY, PARK TOWN,
   CHENNAI-600 003.

R1 BY SENIOR GOVERNMENT PLEADER SRI.D.ANILKUMAR.
SRI.ALEXANDER THOMAS, SC,RAILWAYS
SRI.ANTONY DOMINIC, SC, COCHIN PORT TRUST.

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.Bali,C.J. & S.Siri Jagan,J.

R.P.No.1119 of 2006 in
W.P.(C).No.29943 of 2006-M

Dated, this the 19th day of December, 2006

ORDER

V.K.Bali,C.J. (Oral)

The prayer in the application is to review the order dated 20th November, 2006 passed in W.P.(C).No.29943 of 2006. The writ was dismissed following the Division Bench decision of the even date in W.P.(C).No.30141 of 2006-S. It is the case of the review petitioners that the points raised in the present writ were not raised in W.P.(C).No.30141 of 2006. It is further the case of the applicants that the proposed alignment of the railway line through Vaduthala, which is referred to as alignment No.2, is impracticable and virtually impossible in the nature on account of the peculiar alignment. It is stated that alignment No.2 passes through the thickly populated Vaduthala area over more than 2.5 kilometers of backwaters without any land mass in between and then will have to cut across the GIDA bridges entailing the demolition of one of the three GIDA bridges and that would be

impracticable and virtually impossible. Indeed, this point was not dealt with by this Court as that point may not have been taken in W.P.(C).30141 of 2006.

2. We have heard learned counsel for the parties and our prima facie view is that such a mammoth project could not have been undertaken by the concerned respondents without examining its viability. However, since the petitioners are vehement in their contention that the project would not be viable, we only observe/direct that the concerned respondents, before starting the project, would examine its viability in the context of the averments made in the petition as mentioned above. The review petition is disposed of accordingly.

3. At this stage, Mr.D.Anilkumar, learned Senior Government Pleader states that notification under Section 4 of the Kerala Land Acquisition Act has already been issued and the same was issued after assessing the feasibility of the project. This is stoutly denied by the counsel for the petitioners. We do not wish to deal with this issue at this stage. If it be the positive

case of the respondents that notification under Section 4 of the Act has already been issued, they may file an application, which shall be considered in accordance with law.

V.K.Bali
Chief Justice

S.Siri Jagan
Judge

vku/-